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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,944	10/14/2003	Hi Thomas Keller	H1887-39	3677

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EXAMINER

WARTALOWICZ, PAUL A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/684,944	<b>Applicant(s)</b> KELLER, HI THOMAS	
	<b>Examiner</b> Paul A. Wartalowicz	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1, 2, 3, 7, 8, 9, 13, 14, 15, 19, 21, 25, and 27 rejected under 35

U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 7, and 13 the recitations “background formed from at least one wood grain type” and “contrasting woods of a second wood grain type” render the claim indefinite. It is unclear what the term “type” means in this claim. Is it a wood or a grain?

In claims 2, 8, and 14, the recitation “at least one wood grain type...two contrasting woods of the second wood grain type” renders the claim indefinite. It is unclear what the term “type” means in the claim. Is veneer a wood grain?

In claims 3, 9, 15, 21, and 27, the recitation “at least one wood grain type of the background...at least two contrasting wood grain types” renders the claims indefinite. It is unclear what the term type means in these claims. In claims 2, 8, and 14, “type” refers to veneer, in claims 3, 9, 14, 21, and 27, “type” refers to different wood such as maple or cherry: Is veneer equivalent to maple and cherry?

In claims 19 and 25, the recitations “a background depicting at least one wood grain type” and “a pattern depicting at least two contrasting woods of a second wood grain type” render the claim indefinite.

Clarification and/or correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Detweiler et al. ('407)

Detweiler et al. teaches a wood panel (fig 1, #10), affixed to a substrate (fig 2a, #14), comprising a background (fig 1, #12) formed from wood (col. 3, line 44) and a pattern formed (col. 1, lines 30-31) formed of at least two contrasting wood grain types (three sets of discrete construction members, col. 2, lines 6-10) wherein the background and pattern are so adjoined that the pattern creates a repeatable patchwork appearance (grid pattern, col. 2, lines 35-36) against the background. Detweiler et al. also teaches the wood pieces used for construction having a veneer (thickness of 0.11 inches, col. 4, line 27). Note that the veneer is defined as a thin sheet of a material; see Webster's Ninth New Collegiate Dictionary-the thickness of Detweiler et al.'s wood reads on the claimed veneer.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 3-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Detweiler et al. ('407) in view of Cramer et al. (792).

Detweiler et al. teaches a decorative wood panel article as described above. Detweiler et al. further teaches that the design or pattern is achieved by assembling a plurality of wood pieces (veneer) on a wood substrate to achieve the desired design or pattern (col. 3, lines 22-24).

As to claims 3, 9, and 15, Detweiler et al. fail to teach that the second contrasting wood grain types are selected from the group consisting of mahogany, maple, cherry, and prima vera.

Cramer et al., however, teaches that thin sheets of veneer are assembled into articles of furniture or decorative wall paneling (col. 1, lines 14-16). Cramer et al. further teaches that the veneers are selected from maple, cherry, birch, and white oak, etc...

(col. 1, lines 44-46) for the purpose of having different wood textures for wall preparations to have desirable decoration (col. 1, lines 40-43).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided different wood-grain types such as maple and cherry in Detweiler et al. in order to have a variety of different wood designs and patterns as taught by Cramer et al.

As to claim 13, Detweiler et al. also fail to teach a furniture member incorporating therein the substrate with wooden panel affixed thereto. Cramer et al., however, teach veneer slices with patterns that can be made into furniture member incorporating therein the substrate with wooden panel affixed thereto (furniture and wall-paneling, col. 1, lines 15-16) because it is desirable in the industries of furniture and decorating to incorporate patterns into casegood furniture and wall-paneling (col. 1, lines 40-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided veneer slices with patterns that can be made into furniture in Detweiler et al. in order incorporate patterns into casegood furniture and wall-paneling as dictated by the industries of furniture and decorating.

As to claims 4, 10, and 16, Detweiler et al. also fails to teach a wooden panel wherein the pattern is a cathedral window quilt pattern. Cramer et al., however, teach a cathedral pattern for veneer slices (col. 5, line 28) that can be varied easily (col. 5, line 30) based upon the desired end use of the product.

Thus, one of ordinary skill in the art would have recognized that the pattern of the wooden panel would be easily determined depending on the desired design as described above by Cramer et al.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a cathedral pattern in Detweiler et al. in order to have different desired patterns in the wooden panel as taught by Cramer et al.

As to claims 17-18, Detweiler et al. ('407) fail to teach a pattern comprising a double wedding ring pattern or star pattern.

Detweiler et al. teaches that the pattern can be achieved by a variety of different design (col. 3, lines 22-24). Cramer et al. also teaches that the pattern of the wooden panel would be easily determined depending on the desired design such as the cathedral pattern. As to the limitation of a double wedding ring pattern and a star pattern, one of ordinary skill in the art would have been motivated to change the pattern in order to change the visual attractiveness of the wood product (wood panel, furniture, or panel door) based on the desired end result of the product as taught by the primary and secondary reference in the absence of unexpected results. (See MPEP 2144.04).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided different patterns (double wedding ring or star pattern) in Detweiler et al. in order to change the visual

attractiveness of the wood product as taught by Cramer et al. in the absence of unexpected results.

4. Claims 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Detweiler et al. ('407) in view of Cramer et al. ('792) in further view of Popat et al. (U.S. 2002/0029843).

Detweiler et al. and Cramer et al. teach a decorative wood panel article as described above.

Detweiler et al. and Cramer et al. fail to teach the claimed aspect of the decal system. Popat et al. however teach the decal system comprising a release coated liner sheet used in wood furniture and a wide variety of other surfaces (paragraph 0014, lines 12-16).

Therefore, one of ordinary skill in the art would have recognized the usage of the decal system in the wood panel article as described in Popat et al.

Thus, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a decal system in Detweiler et al. ('407) and Cramer et al. ('792) in order to attach a custom printed image pattern to a furniture surface without the use of a heating step as taught by Popat et al.

As to claims 19 and 25, Detweiler et al. ('407) and Cramer et al. (992) teach a substrate, a background, and a pattern with two discrete pieces of wood.

As to the claimed shape of a star pattern, Popat et al (U.S. 2002/0029843) teaches the star decal pattern. Furthermore, the limitation of a double wedding ring



pattern or a different visual attractiveness of the wood product would be readily determined through routine experimentation depending on the desired end results as shown by the primary and secondary references above. (See MPEP 2144.04).

### **Conclusion**

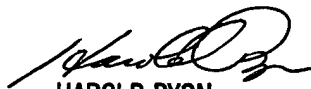
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Wartalowicz whose telephone number is (571) 272-5957. The examiner can normally be reached on 8:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Wartalowicz  
July 19, 2005



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SUPERVISORY PATENT EXAMINER  
1772

7/25/05